

## THE STATE OF NEW HAMPSHIRE

CHESHIRE, SS.

SUPERIOR COURT

Cynthia I. Chiu  
23 School Street  
Bellows Falls, VT 05101

213-2023-CV-00015

v.

Burns & Goins, LLC d/b/a Restaurant at Burdick's  
47 Main Street  
Walpole, NH 03608

**NOTICE OF REMOVAL FROM N.H. COMMISSION FOR HUMAN RIGHTS**  
**AND REQUEST FOR TRIAL PURSUANT TO NH RSA 354-A:21-A**

NOW COMES Defendant BURNS & GOINS, LLC d/b/a RESTAURANT AT BURDICK'S, by and through its attorneys, JACKSON LEWIS P.C., and hereby gives notice of its intent to remove Plaintiff's Charge of Discrimination from the New Hampshire Commission for Human Rights to the Cheshire County Superior Court, pursuant to the provisions of NH RSA 354-A:21-a, and state as follows:

1. On or about October 28, 2020, Cynthia Chiu dual-filed a Charge of Discrimination with the New Hampshire Commission for Human Rights ("NHCHR") (Charge No. EG(R) 0019-21) and the Equal Employment Opportunity Commission ("EEOC") (Charge No. 16D-2021-00013) against Burns & Goins, LLC d/b/a Restaurant at Burdick's, alleging discrimination on the basis of gender and retaliation in violation of the Title VII of the Civil Rights Act of 1964, 42 § 2000e, et seq. ("Title VII"), the Equal Pay ACT ("EPA"), and NH RSA 354-A, et seq. A copy of Plaintiff's Charge of Discrimination is appended hereto as Exhibit 1.

2. By letter dated December 12, 2022, the NHCHR issued a partial<sup>1</sup> finding of probable cause and scheduled a public hearing on July 19, 2023, under the authority of NH RSA

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<sup>1</sup> The NHCHR issued a finding of no probable cause regarding Plaintiff's claims of retaliation.

354-A:21, on the issues of whether Plaintiff was subjected to gender discrimination (differing treatment) by Defendant in violation of NH RSA 354-A, et seq.

3. Defendant denies Plaintiff's claims in their entirety.

4. Defendant wishes to exercise its right to a trial pursuant to the provisions of NH RSA 354-A:21-a.

5. A copy of this Notice has been provided to *pro se* Plaintiff Cynthia Chiu and to the New Hampshire Commission for Human Rights.

Respectfully Submitted,  
BURNS & GOINS, LLC d/b/a  
RESTAURANT AT BURDICK'S,  
By its attorneys,  
JACKSON LEWIS P.C.,

Date: January 25, 2023

By: /s/Ashley R. Theodore  
Ashley R. Theodore, NHBA #268090  
Debra Weiss Ford, NHBA #2687  
100 International Drive, Suite 363  
Portsmouth, NH 03801  
[ashley.theodore@jacksonlewis.com](mailto:ashley.theodore@jacksonlewis.com)  
603.559.2706 | Direct  
[debra.ford@jacksonlewis.com](mailto:debra.ford@jacksonlewis.com)  
603.559.2727 | Direct

Certificate of Service

I hereby certify that copies of the foregoing were this day served on Plaintiff *pro se* Cynthia Chiu via first class mail, postage prepaid, at 23 School Street, Bellows Falls, VT, 05101 and via email at [cindichiu64@gmail.com](mailto:cindichiu64@gmail.com) and via email on Sarah Burke Cohen, Assistant Director, New Hampshire Commission for Human Rights, 2 Industrial Park Drive, Bldg. 1, Concord, New Hampshire, 03301 at [sarah.e.burkecohen@hrc.nh.gov](mailto:sarah.e.burkecohen@hrc.nh.gov).

Date: January 25, 2023

By: /s/Ashley R. Theodore  
Ashley R. Theodore

<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: <input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC		Agency(ies) Charge No(s): <b>EG(R) 0019-21</b> <b>16D-2021-00013</b>
<b>New Hampshire Commission for Human Rights</b> and EEOC <small>State or local Agency, if any</small>				
Name (indicate Mr., Ms., Mrs.) <b>Cynthia I Chiu</b>		Home Phone (Incl. Area Code) <b>802-463-0736</b>		Date of Birth
Street Address City, State and ZIP Code <b>23 School Street, Bellows Falls VT, 05101</b>				
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)				
Name <b>Burns and Goins LLC d/b/a Restaurant at Burdick's</b>		No. Employees, Members <b>40</b>		Phone No. (Include Area Code) <b>(603) 756-9058</b>
Street Address City, State and ZIP Code <b>47 Main Street, Walpole NH, 03608</b>				
Name <div style="text-align: center; font-size: 2em; opacity: 0.5;">RECEIVED</div>		No. Employees, Members		Phone No. (Include Area Code)
Street Address City, State and ZIP Code <div style="text-align: center;">OCT 30 2020</div>				
<b>NH Commission for Human Rights</b>				
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> RACE    <input type="checkbox"/> COLOR    <input checked="" type="checkbox"/> SEX    <input type="checkbox"/> RELIGION    <input type="checkbox"/> NATIONAL ORIGIN  <input checked="" type="checkbox"/> RETALIATION    <input type="checkbox"/> AGE    <input type="checkbox"/> DISABILITY    <input type="checkbox"/> GENETIC INFORMATION  <input type="checkbox"/> OTHER (Specify) <b>RSA 354-A</b> </div> <div>           DATE(S) DISCRIMINATION TOOK PLACE            Earliest: <b>2003</b>    Latest: <b>June 1, 2020</b>   <input type="checkbox"/> CONTINUING ACTION         </div> </div>				
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <ol style="list-style-type: none"> <li>I identify as a woman.</li> <li>From approximately 2003 until June 1, 2020, I was employed at Burns and Goins, LLC d/b/a Restaurant at Burdick's.</li> <li>Throughout my employment at the restaurant, I maintained high levels of productivity and always made quality food.</li> <li>About three years ago, a new employee, Will, was hired.</li> <li>After Will was hired, he began exhibiting threatening, demeaning, and inappropriate behaviors toward other employees and me. I reached out to my supervisor, Wesley Babb, who dismissed the complaint.</li> <li>After I began complaining about the work environment, my hours were being changed so that I would be working less hours as my shifts began to start later in the day.</li> <li>Following this, another male employee, Josh L/N/U, proposed an ultimatum to our supervisor based on the continued inappropriate behavior of Will.</li> <li>Will was fired that day.</li> <li>Although I had continued to complain about Will's behavior, management took no action upon complaints about Will were made by male employees.</li> </ol>				
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.			NOTARY - When necessary for State and Local Agency requirements <div style="text-align: center;">         Katelyn Neathawk        I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.        SIGNATURE OF COMPLAINANT  <div style="text-align: center;">         Cynthia I Chiu        SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY        (month, day, year)         </div> </div>	
I declare under penalty of perjury that the above is true and correct.  <div style="display: flex; justify-content: space-between;"> <div> <div style="text-align: center;"> <div style="font-size: 1.5em;">10/28/20</div> <div>Date</div> </div> <div style="text-align: center;">   <div>Charging Party Signature</div> </div> </div> <div style="text-align: right;"> <div style="font-size: 1.5em;">157-0010924</div> </div> </div>			<div style="writing-mode: vertical-rl; transform: rotate(180deg);">           KATHLEEN NEATHAWK            Notary Public in the State of Vermont            WINDHAM COUNTY            Commission Expires Feb 10, 11/31/24         </div>	



**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA**EG(R) 0019-21**☒ EEOC**16D-2021-00013****New Hampshire Commission for Human Rights**

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

10. My employer had limited hours and/or was closed due to COVID-19 for a period of time. Although some staff continued to work, I felt it was unsafe as most were not wearing masks and/or socially distancing. My employer told employees if we weren't comfortable at work, we could accept being laid off.
11. I worked for approximately 2 weeks, but began to feel unsafe due to there being no masks and no social distancing. After the 2 weeks, I stopped working for a time due to COVID safety concerns.
12. Before my layoff due to COVID-19, I learned a male day time cook in an inferior role to myself (sous chef) was making more money than me.
13. During the COVID-19 layoff, I was informed by the owner that I had let my day-to-day responsibilities slip away from me. Due to these claims, my employer suggested I become a line cook.
14. Due to an issue with my phone, I was not able to respond to the message immediately.
15. At this point in approximately May 2020, my employer was operating, which required additional staff to return from lay off.
16. In early May 2019, my family and I were exposed to COVID-19 through contact with a person who tested positive. I informed my supervisor and explained that I would have to quarantine and await the results of a test before making a return to work.
17. Due to testing issues including a lost result and an inconclusive result, the testing process took approximately one month.
18. During this delay, I continuously kept my supervisors informed of the situation and my intent to return to work.
19. On May 27, 2020, I was cleared to return to work. I informed my supervisor and he directed me to "hang tight".
20. On June 1, 2020, I received a letter from my employer notifying me that I had resigned from my position due to infrequent contact and refusal to work.
21. I assert that I was discriminated against because of my gender by way of differential treatment in pay, employment changes, and my supervisor dismissing my complainant against Will.
22. I assert that I was also retaliated against after I reported harassment by Will and differential treatment to my supervisor by way of hour changes, allegations of alleged performance issues and discharge.
23. I have and continue to suffer damages, including but not limited to lost wages, lost earning capacity, lost employment benefits, emotional distress, humiliation, inconvenience, and loss of enjoyment of life. I seek all damages to which I am entitled.

**KATHLEEN NEATHAWK**  
 Notary Public in the State of Vermont  
 WINDHAM COUNTY  
 Commission Expires Feb. 10, 1/31/21

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

Kathleen Neathawk

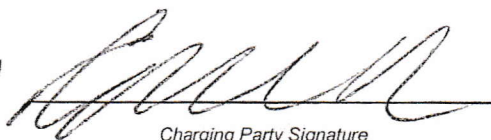
I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
 (month, day, year)

10/28/20

Date



Charging Party Signature

157-0010924



EEOC FORM 131-A (11/09)

## U.S. Equal Employment Opportunity Commission

<div style="border: 1px solid black; width: 100px; height: 100px; margin: 0 auto;"></div> <p><b>BURNS AND GOINS LLC D/B/A RESTAURANT AT BURDICK'S</b>  <b>47 Main Street</b>  <b>Walpole, NH 03608</b></p>	PERSON FILING CHARGE
	<b>Cynthia I. Chiu</b>
	THIS PERSON (check one or both) <input checked="" type="checkbox"/> Claims To Be Aggrieved <input type="checkbox"/> Is Filing on Behalf of Other(s)
	EEOC CHARGE NO. <b>16D-2021-00013</b>
	FEPA CHARGE NO. <b>EG(R) 0019-21</b>

**NOTICE OF CHARGE OF DISCRIMINATION IN JURISDICTION WHERE A FEP AGENCY WILL INITIALLY PROCESS**

(See the enclosed for additional information)

THIS IS NOTICE THAT A CHARGE OF EMPLOYMENT DISCRIMINATION UNDER

- ☒ Title VII of the Civil Rights Act (Title VII)
 ☒ The Equal Pay Act (EPA)
 ☐ The Americans with Disabilities Act (ADA)
- ☐ The Age Discrimination in Employment Act (ADEA)
 ☐ The Genetic Information Nondiscrimination Act (GINA)

HAS BEEN RECEIVED BY

- ☐ The EEOC and sent for initial processing to \_\_\_\_\_  
 (FEP Agency)
- ☒ The **New Hampshire Commission for Human Rights** and sent to EEOC for dual filing purposes.  
 (FEP Agency)

While EEOC has jurisdiction (upon expiration of any deferral requirement if this is a Title VII, ADA or GINA charge) to investigate this charge, EEOC may suspend its investigation and await the issuance of the Agency's final findings and orders. These findings and orders will be given weight by EEOC in making its own determination as to whether reasonable cause exists to believe that discrimination has occurred.

You are therefore encouraged to cooperate fully with the Agency. All facts and evidence provided by you to the Agency will be considered by EEOC when it reviews the Agency's final findings and orders. In many cases EEOC will take no further action, thereby avoiding the necessity of an investigation by both the Agency and EEOC. This likelihood is increased by your active cooperation with the Agency.

As a party to the charge, you may request that EEOC review the final findings and orders of the above-named Agency. For such a request to be honored, you must notify EEOC in writing within 15 days of your receipt of the Agency's final decision and order. If the Agency terminates its proceedings without issuing a final finding and order, you will be contacted further by EEOC. Regardless of whether the Agency or EEOC processes the charge, the Recordkeeping and Non-Retaliation provisions of the statutes as explained in the enclosed information sheet apply.

For further correspondence on this matter, please use the charge number(s) shown above.

Enclosure(s): Copy of Charge

## CIRCUMSTANCES OF ALLEGED DISCRIMINATION

- ☐ Race
 ☐ Color
 ☒ Sex
 ☐ Religion
 ☐ National Origin
 ☐ Age
 ☐ Disability
 ☒ Retaliation
 ☐ Genetic Information
 ☒ Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
November 3, 2020	<b>Judy A. Keenan,</b> District Director	